



2025:DHC:10000



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 11.11.2025

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CRL.A. 548/2016

SUNIL RAJ

.....Appellant

Through: Mr. Sugam Puri, Advocate with
appellant (through VC).

versus

STATE

.....Respondent

Through: Mr Pradeep Gahalot, APP for State
with SI Sonu Giri PS Ambedkar
Nagar, New Delhi.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present appeal, the appellant seeks to assail the judgement dated 28.04.2016 and order on sentence dated 06.05.2016 passed by ASJ-02, South District, Saket Court, Delhi in FIR no. 259/2013 registered under Section 25 Arms Act at P.S. Ambedkar Nagar, Delhi.

2. Vide the order on sentence, the appellant has been directed to undergo RI for a period of 2 years alongwith fine of Rs. 5,000/- for the offence punishable under Section 25 Arms Act, in default thereof would further undergo SI for 6 months. He was acquitted for the charge u/s 307/302/34 IPC. The benefit of Section 428 Cr.P.C. has been provided to the appellant.

Vide order dated 10.06.2016, the sentence of the appellant was suspended during the pendency of the present appeal.



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3. Briefly put, the case of the prosecution is that on 16.06.2013, DD No. 48A was recorded regarding a knifing incident in *Gali* No. 30, DDA Market, Madangir, New Delhi. The DD was assigned to SI Varun Kumar, who, along with Ct. Manish, reached the spot and found blood lying there. An eyewitness, *Sanjay*, met them at the spot and proceeded to Majeedia Hospital, where another injured, *Rajender*, was found, and his blood-stained shirt was seized. The police team was then informed that another injured person, *Subin*, had been admitted to Max Hospital, where he was found unconscious and unfit for statement. A third injured, *Shekhar*, was traced to AIIMS Trauma Centre, where he was conscious but declined to give a statement. Subsequently, the statement of injured *Sanjay* was recorded, and the case was registered. While the investigation was in progress, information was received via DD No. 10B that injured *Subin* had been declared dead. As the accused persons were named in the statement, one of them, *Pramod*, was arrested the next day, i.e., on 17.06.2013, based on secret information. The remaining three accused - *Sunil Raj*, *Anil Raj*, and *Jeet Singh Rawat* were subsequently apprehended by special staff/other police station officials and later on arrested in the present case. Pursuant to the disclosure statement of co-accused *Pramod*, a button-actuated knife used in the offence was recovered from a *nallah*, while another knife was recovered at the instance of the appellant from *Jahanpanah* Forest.

Charges were framed against all 4 accused u/s 302/307/34 IPC, and *Pramod* and *Sunil*/appellant were additionally charged u/s 25 Arms Act.

4. The prosecution examined 30 witnesses in support of its case, primarily relying on the testimonies of complainant *Sanjay*, examined as PW-1, and injured *Shekhar*, examined as PW-3, and *Rajender*, examined as



PW-4. SI Dara Singh, examined as PW-7, HC Bansilal, examined as PW-8, and Inspector Abhay Singh, examined as PW-27, deposed regarding the recovery of the knives. The remaining witnesses were formal in nature and deposed on various aspects of the investigation.

The statement of the appellant was recorded under Section 313 Cr.P.C., wherein he denied all allegations, claimed innocence and false implication, and did not lead any defence evidence.

5. A perusal of the record indicates that PW-1, PW-3, and PW-4 had turned hostile. The FSL examination of the knife also could not point out anything, as it was opined that no reaction was found on it. Since all three material witnesses failed to identify the appellant as the perpetrators, the prosecution failed to establish the charges under Sections 302/307/34 IPC, and the appellant was therefore acquitted. As regards the recovery, the defence argued that the knives were planted, as the recoveries were made from open areas and without public witnesses. However, PW-7, PW-8, and PW-27 consistently deposed regarding the recoveries made at the instance of the appellant, and their testimonies stood corroborated. Though the knives were recovered pursuant to the appellant's disclosure, the exclusive knowledge about the availability of the knife at a particular place, substantiated by the actual recovery, was sufficient to indicate the consciousness relevant to show possession. However, as the knives recovered from the appellant were in his illegal possession and were prohibited weapons under the provisions of the Arms Act, the recovery stands proved, and accordingly, the conviction of the appellant under Section 25 of the Arms Act is upheld.

6. At this stage, learned counsel appearing for the appellant submits, on



instructions from the appellant, who is present through VC and identified by I.O., that the appellant is remorseful and being fully aware of the consequences, does not wish to press the present appeal on merits. He accepts his guilt and prays that he be released on the period already undergone by him in custody. He further submits that the fine imposed upon him has been paid on 13.05.2016 and the receipt no. 000957307 is placed on record.

7. Learned APP for the State has handed over a status report, which is taken on record. As per which the appellant has other involvements.

8. Learned counsel for the appellant submits that in one of the other cases, the appellant was convicted under Section 307 IPC and sentenced to undergo RI for 3 years, which sentence he has already undergone, and that in the other case, the offence has been compounded.

9. The law regarding release of the appellant in cases where the convict has undergone more than half of the sentence was laid down by the Supreme Court in Sonadhar Vs. State of Chhattisgarh, reported as **2021 SCC OnLine SC 3682**, and the relevant portion of the same is extracted hereinunder:

“28. We thus issue the following directions:

a) A similar exercise be undertaken by the High Court Legal Services Committee of different High Courts so that convicts represented by legal aid Advocates do not suffer due to delay in hearing of the appeals. NALSA will circulate this order to the concerned authority and monitor the exercise to be carried on.

b) The Delhi High Court Legal Services Committee would take up the cases of those convicts who have undergone more than half the sentence in case of fixed term sentences and examine the feasibility of filing bail applications before the High Court, while in case of 'life sentence' cases, such an exercise may be undertaken where eight years of actual custody has been undergone.

c) We are of the view that in fixed term sentence cases, an endeavor be made, at least as a pilot project, in these two High Courts to get in touch with the convicts and find out whether they are willing to accept their



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infractions and agree to disposal of the appeals on the basis of sentence undergone.

d) A similar exercise can be undertaken even in respect of 'life sentence' cases where the sentenced persons are entitled to remission of the remaining sentence i.e., whether they would still like to contest the appeals or the remission of sentence would be acceptable to such of the convicts."

10. The nominal roll of the appellant dated 13.10.2025 records that the appellant has undergone about 1 year and 5 months of sentence and his conduct in jail has been reported as satisfactory.

11. Having regard to the fact that the incident pertains to the year 2013, and considering the facts and circumstances noted hereinabove, as well as the decision in Sonadhar (supra), and noting that the appellant has already paid the fine, the substantive sentence imposed upon the appellant in the present appeal is hereby modified to the period already undergone by him.

12. The personal bond furnished by the appellant stands cancelled and the sureties are discharged.

13. The present appeal is partly allowed and disposed of in the above terms.

14. A copy of this order be communicated to the concerned Jail Superintendent as well as to the Trial Court.

**MANOJ KUMAR OHRI
(JUDGE)**

NOVEMBER 11, 2025/dh